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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2012-74

12 **KRISTEN SHIRRA MAURER**
13 **P.O. Box 881306**
14 **San Diego, CA 92168**

A C C U S A T I O N

15 **Registered Nurse License No. 732330**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about July 23, 2008, the Board of Registered Nursing issued Registered Nurse
24 License Number 732330 to Kristen Shirra Maurer (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 November 30, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480;
or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related

1 to the qualifications, functions, and duties of the licensee in question, the
2 record of conviction of the crime shall be conclusive evidence of the fact
3 that the conviction occurred, but only of that fact, and the board may inquire
4 into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties, of the
licensee in question.

5 As used in this section, 'license' includes 'certificate,' 'permit,'
6 'authority,' and 'registration.'

7 9. Section 2761 of the Code states:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the
following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

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13 (f) Conviction of a felony or of any offense substantially related to the
14 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

15 ...

16 10. Section 2762 of the Code states:

17 In addition to other acts constituting unprofessional conduct within the
18 meaning of this chapter [the Nursing Practice Act], it is unprofessional
19 conduct for a person licensed under this chapter to do any of the following:

20 (a) Obtain or possess in violation of law, or prescribe, or except as
21 directed by a licensed physician and surgeon, dentist, or podiatrist administer
22 to himself or herself, or furnish or administer to another, any controlled
substance as defined in Division 10 (commencing with Section 11000) of the
Health and Safety Code or any dangerous drug or dangerous device as
defined in Section 4022.

23 ...

24 (c) Be convicted of a criminal offense involving the prescription,
25 consumption, or self-administration of any of the substances described in
26 subdivisions (a) and (b) of this section, or the possession of, or falsification
of a record pertaining to, the substances described in subdivision (a) of this
27 section, in which event the record of the conviction is conclusive evidence
thereof.

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REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states:

...

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

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1 **COSTS**

2 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **DRUGS**

7 14. Hydrocodone is a Schedule II controlled substance as designated by Health and
8 Safety Code section 11055(b)(1)(J), and is a dangerous drug pursuant to Business and Professions
9 Code section 4022. Hydrocodone is a narcotic pain reliever.

10 15. Hydrocodone bitartate/acetaminophen, also known by the brand names Vicodin,
11 Norco, Zydane, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and Anexsia, is a narcotic
12 Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4),
13 and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone
14 is used as a narcotic analgesic in the relief of pain.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(August 11, 2009 Criminal Conviction for Obtaining a Prescription by Fraud or Deceit on**
17 **April 12, 2009)**

18 16. Respondent is subject to disciplinary action under 490 and 2761 subdivisions (a) and
19 (f) of the Code in that Respondent was convicted of a crime that is substantially related to the
20 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

21 a. On or about August 11, 2009, in a criminal proceeding entitled *The People of*
22 *the State of California v. Kristen Shirra Maurer*, case number SCD222074, in San Diego County
23 Superior Court, Respondent was convicted on her plea of guilty of violating Health and Safety
24 Code section 11173 subdivision (a), obtaining a prescription by fraud or deceit, a felony.
25 Respondent also admitted to violation of Health and Safety Code section 11377 subdivision (a),
26 possession of a controlled substance, to wit norco. Respondent was originally charged with
27 eleven felony counts including two counts of burglary, five counts of obtaining a prescription by
28

1 fraud or deceit, and one count of possession of a controlled substance as a result of the plea
2 agreement the remaining charges against Respondent were dismissed.

3 b. As a result of the conviction, on or about September 9, 2009, Respondent was
4 sentenced to 12 days in custody, 3 years probation, ordered to complete 10 days of community
5 service, and ordered to pay \$1,880 dollars in fines.

6 c. The facts that led to the conviction are that on or April 12, 2009, Respondent
7 entered into a Rite Aid Pharmacy and presented a forged prescription under the name "Ramon
8 Aragon." The pharmacist became suspicious and contacted the police. The San Diego Police
9 Department arrived and contacted the Respondent. They confirmed that Respondent was not
10 "Ramon Aragon" and the prescription was forgery. In Respondent's vehicle officers found five
11 (5) pills of what they believed to be hydrocodone totaling 50 milligrams, later examination
12 revealed the medication to be Norco.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct – Illegal Possession of Drugs)**

15 17. Respondent is subject to disciplinary action to under section 2762 (a) of the Code in
16 that on April 12, 2009, as described above in paragraph 15, Respondent possessed a controlled
17 substance, to whit Norco, a medication not prescribed to her which constitutes unprofessional
18 conduct.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct – Conviction of Prescription Drug- Related Criminal Offense)**

21 18. Respondent is subject to disciplinary action under section 2762 (c) of the Code in that
22 on or about August, 11 2009, as described in paragraph 15 above, Respondent was convicted of a
23 criminal offense involving the possession of or falsification of a record pertaining to prescription
24 medication which constitutes unprofessional conduct.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 732330, issued to Kristen
5 Shirra Maurer;

6 2. Ordering Kristen Shirra Maurer to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.
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12 DATED: August 2, 2011

Louise R. Bailey

13 LOUISE R. BAILEY, M.Ed., RN
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant

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